

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEPHEN E. ROULAC, and O.D.
PARKINSON,

Plaintiffs,

v.

UNITED STATES OF AMERICA,
Defendant.

No. C 04-02671 JSW

**ORDER CONSTRUING MOTION
FOR LEAVE TO FILE MOTION
FOR RECONSIDERATION AS
MOTION TO ALTER OR AMEND
JUDGMENT**

On March 17, 2006, Defendant filed a motion for leave to file a motion for reconsideration, in which Defendant asks the Court to reconsider its judgment as a matter of law in favor of Plaintiffs with respect to negligence penalties assessed by Defendant.

Although Defendant purports to seek leave to file a motion for reconsideration, under Local Rule 7-9, a motion for reconsideration applies to interlocutory orders and must be made before the entry of a judgment adjudicating all rights and claims of the parties. When the Court granted, on the record, Defendant's motion for judgment as a matter of law in Defendant's favor but granted judgment as a matter of law in favor of Plaintiff with respect to the negligence penalties, it had effectively adjudicated all rights and claims of the parties. Accordingly, to the extent Defendant seeks relief pursuant to Local Rule 7-9, the Court DENIES that request. To the extent Defendant seeks relief from the order granting judgment as a matter of law in favor of Plaintiff on this issue, the Court will consider the merits of Defendant's argument.¹

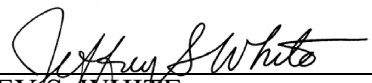
¹ Defendant's motion for reconsideration refers to Federal Rule of Civil Procedure 60(b), which permits a party to seek relief from judgment if the motion is filed more than ten days after entry of judgment. Defendant's motion for leave to file its motion

1 Accordingly, Defendant's motion for reconsideration shall be construed as a Rule 59(e)
2 motion to alter or amend judgment and shall be deemed filed as of March 17, 2006.

3 Plaintiffs shall file their response to Defendant's motion on or before April 14, 2006.
4 Defendant shall file a reply on or before April 21, 2006. The Court shall take the matter under
5 submission at that time and shall advise the parties if it intends to set a hearing on the motion.

6 **IT IS SO ORDERED.**

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8 Dated: March 27, 2006


JEFFREYS. WHITE
UNITED STATES DISTRICT JUDGE

United States District Court

For the Northern District of California

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for reconsideration was filed less than ten days after the Court's record order. *See* Fed. R.
Civ. P. 59(e).